

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

CIVIL ACTION
NO. 05-30182-MAP

MICHELLE BEEBE,

Plaintiff,

v

WILLIAMS COLLEGE,

Defendant.

**THE PLAINTIFF'S MOTION TO AMEND THE SCHEDULING ORDER TO ALLOW
HER TIME TO DESIGNATE A VOCATIONAL EXPERT IF AND WHEN THE
DEFENDANT DESIGNATES SUCH AN EXPERT**

The Plaintiff, Michelle Beebe, respectfully requests that this Court amend the Scheduling Order, dated February 12, 2007, in the above-entitled action, to allow her time to designate a rebuttal vocational expert after the Defendant designates such an expert, should the Defendant choose to do so. As grounds for this motion, the Plaintiff states:

1. It is the Plaintiff's understanding that the Defendant may designate a vocational expert to challenge whether the Plaintiff has adequately mitigated her damages with regard to securing and attempting to secure alternative employment.
2. The Defendant has the burden to prove that the Plaintiff has failed to adequately mitigate her damages. Carey v. Mt. Desert Island Hospital, 156 F.3d 31, 41 (1st Cir. 1997).
3. If the Defendant decides not to designate a vocational expert to develop testimony regarding the issue of mitigation, the Plaintiff will not designate such an expert.

4. If the Defendant does designate a vocational expert, the Plaintiff should be allowed an opportunity to rebut the testimony of such an expert with their own expert.

5. Under the present Scheduling Order, however, the Plaintiff is required to designate all of her experts prior to the Defendant designating any of its experts.

Therefore, the Plaintiff requests that the Scheduling Order, dated February 12, 2007, be amended to allow the Plaintiff a reasonable amount of time to designate a vocational expert if and when the Defendant designates such an expert.

**CERTIFICATION OF ATTEMPT TO CONFER WITH OPPOSING COUNSEL
PURSUANT TO LOCAL RULE 7.1(A)(2)**

The Plaintiff's counsel hereby certifies that he conferred with opposing counsel about this issue by telephone conversation on Thursday, March 22, 2007 and attempted to further confer with opposing counsel by telephone call on Wednesday, March 28, 2007. Counsel left a voice mail message with counsel on the latter date, and the call has yet to be returned.

Respectfully submitted,
MICHELLE BEEBE
By Her Attorney,

Dated: March 30, 2007

/s/ Thomas J. McCormick
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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic File (NEF).

/s/ Thomas J. McCormick
Thomas J. McCormick